

## REPORT TO LICENSING COMMITTEE

Date of Meeting: 23 September 2014

Report of: Assistant Director Environment

Title: Consultation on the Licensing Act 2003 Statement of Licensing Policy

### Is this a Key Decision?

Yes

\* One that affects finances over £1m or significantly affects two or more wards. If this is a key decision then the item must be on the appropriate forward plan of key decisions.

### Is this an Executive or Council Function?

#### Council Function

#### 1. What is the report about?

Exeter City Council's current Statement of Licensing policy was written in 2010 and came into effect in January 2011. There is a legal requirement to review such policy statements every five years. The current policy must be reviewed by 2016, so it is relevant to commence consultation work on a draft policy document. The Licensing Committee is one of the consultees, with the final Statement of Licensing Policy going to Full Council

#### 2. Recommendations:

The draft a revision of Licensing Policy incorporating areas considered by the Licensing Committee members working groups. The timetable for revision will be as follows:

23 September 2014	Proposed revision of Licensing Act Policy to be circulated for consultation.
12 December 2014	Consultation period ends
3 February 2015	Licensing Act Policy (amended as necessary) to Licensing Committee with recommendation for approval to Full Council.
17 March 2015	Licensing Policy to Executive Committee
21 April 2015	Licensing Policy to Full Council for approval

For the purpose of any review, the Licensing Committee is a consultee as council has to agree the policy.

#### 3. Reasons for the recommendation:

The Licensing Authority must determine and publish a statement of Licensing Policy. The Licensing Authority is under a duty to keep its policy under review and make such revisions as it considers appropriate during each five-year period.

Before determining such a policy section 5(3) of the Licensing Act 2003 places a statutory duty on the Authority to consult. Where revisions are made the authority must publish a statement of the revisions or the revised licensing statement.

#### 4. What are the resource implications including non financial resources.

The legislative changes and proposed changes to policy do not give rise to any additional resource implications or have any revenue impact.

There are no reductions, restructuring and/or redundancy implications as the key changes identified in this report do not give rise to any additional resource requirements as changes are to existing processes. However, in delivering to the changed requirements there may be some training implications for existing staff.

To date fees have been set by the government and have not increased since November 2005. The Home Office is expected to consult in 2014 on changes to allow local authorities to set fees at a level that will reflect full cost recovery. Since April 2013 it has been possible to suspend licences when annual fees have not been paid.

#### **5. Section 151 Officer comments:**

There are no cost implications

#### **6. What are the legal aspects?**

Section 5 of the Licensing Act 2003, the Council as Licensing Authority is duty bound to adopt such Statement of Licensing Policy. As with all policies produced by the Council, it is necessary for it to be reasonable and workable in order to avoid any legal challenge by third parties.

#### **7. Monitoring Officer's comments:**

#### **8. Report details:**

Section 5 of the Licensing Act 2003 ("the LA03") formally required that the Licensing Authority had to prepare and publish a statement of its licensing policy ("the Policy") every three years and that changes made to the LA03 by the Police Reform and Social Responsibility Act 2011 in April 2012 extended this period to every five years.

The draft Statement of Licensing Policy incorporates many of the outcomes of the member working groups that took place between October 2013 and March 2014 which were outlined in a report to the Licensing Committee on 23 May 2014.

Before determining its Policy, the Licensing Authority must consult the persons listed in Section 5(3) of the LA03. Those being:

- The chief officer of police for the area;
- The fire and rescue authority for the area;
- The Public Health Team;
- Persons/bodies representative of local holders of premises licences;
- Persons/bodies representative of local holders of club premises certificates;
- Persons/bodies representative of local holders of personal licences; and,
- Persons/bodies representative of businesses and residents in its area.
- May consult with others as appropriate.

The draft Licensing Policy includes the council's desire to promote a vibrant night time economy with a rich mix of entertainment and activity which is welcoming, clean, safe and that accommodated a wide range of tastes of a diverse population. Officers, the Police and other partnership organisations are concerned with regard to the proliferation of licensed premises concentrated in particular areas and the impact they may have in any given neighbourhood. The policy states that the café culture should be positively engendered.

A Pool of Conditions that can be used by the licensing committee, responsible authorities and applicants can be found at Appendix A.

Part of the consultation will seek whether a review of the Cumulative Impact Policy is needed so that its impact is clearer and more accessible to both applicants and responsible authorities.

#### **9. How does the decision contribute to the Council's Corporate Plan?**

Formulating a licensing policy that recognises the key outcomes of the Members working groups will contribute to a healthy and safe city, and lend support to a robust, business friendly night-time economy.

#### **10. What risks are there and how can they be reduced?**

There are risks that a poorly drafted policy, that is neither proportionate nor reasonable, or is inadequately consulted upon, may give rise to legal challenge. These risks can be reduced by ensuring appropriate consultation takes place, and by giving due regard to the reasonableness and proportionality of policy tools.

#### **11. What is the impact of the decision on equality and diversity; health and wellbeing; safeguarding children, young people and vulnerable adults, community safety and the environment?**

Formulating a licensing policy that recognises the key aims of the council, responsible authorities and other stakeholders should make a positive impact on creating a vibrant city to live, work and visit.

#### **12. Are there any other options?**

The current policy must be reviewed and an updated policy statement produced by 2016.

### **Assistant Director Environment**

#### **Local Government (Access to Information) Act 1972 (as amended)**

#### **Background papers used in compiling this report:-**

The Licensing Act 2003.

The Police Reform and Social Responsibility Act 2011.

SI No. 1129 (C.38) / 2012 *The Police Reform and Social Responsibility Act 2011 (Commencement No. 5) Order 2012.*

Guidance issued under Section 182 of the Licensing Act 2003.

Report to Licensing & Regulatory Committee, 28th May 2012 – *Changes to the Licensing Act 2003.*

Existing Statement of Licensing Policy.

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